

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

VOLVO CONSTRUCTION EQUIPMENT RENTS, INC.,

2:09-CV-32 JCM (LRL)

Plaintiff,

V.

NRL RENTALS, LLC, et al.,

Defendants.

ORDER

Presently before the court is plaintiff Volvo Construction Equipment Rents, Inc.'s motion to reconsider (Doc. #198) Magistrate Judge Leavitt's order denying plaintiff's motion for an order to show cause. (Doc. #154). Defendants then filed a response to the motion. (Doc. #215).

18 This case stems from a construction equipment lease, upon which defendant NRL defaulted.
19 Plaintiff was granted a writ of possession to recover the security on the lease. Magistrate Judge
20 Leavitt denied plaintiff's motion for an order to show cause why the defendants should not be held
21 in contempt for violations of plaintiff's writ of possession. (Doc. #154). Plaintiff asserts that
22 Magistrate Judge Leavitt did not "go far enough" in redressing its concerns because Magistrate Judge
23 Leavitt narrowly construed the initial writ of possession order. (Doc. #198). Plaintiff now asks for
24 a de novo determination or de novo hearing regarding defendant's compliance with the initial writ
25 of possession. *Id.*

The Ninth Circuit holds that civil contempt “consists of a party’s disobedience to a specific and definite court order by failure to take all reasonable steps within the party’s power to comply.”

1 *Reno Air Racing Association v. Jerry McCord*, 452 F.3d 1126, 1130 (9th Cir. 2006). To constitute
2 civil contempt, there must be noncompliance with an order specifically requiring one to do or refrain
3 from doing an act. *See id.* at 1132.

4 The order at issue here (Doc. #66) granted the plaintiff a writ of possession that could be
5 executed at any location where security on the lease was found. Neither the order nor the writ (Doc.
6 #68) expressly directed the defendants or their attorneys to do or refrain from doing anything.
7 Magistrate Judge Leavitt held a day-long hearing regarding defendants' compliance with the order.
8 The parties additionally briefed the question of whether a party can be held in civil contempt even
9 though a court order does not expressly direct the party to do, or refrain from doing, anything.
10 Plaintiff concedes that the writ and subsequent expansions of the writ do not identify or expressly
11 prohibit the complained conduct of the defendants. (Doc. #198). Accordingly, defendants are not in
12 contempt because there was no order specifically requiring them to do, or refrain from doing
13 anything. To the extent that any of defendants' purported conduct has caused harm, plaintiff may
14 seek additional monetary damages.

15 THEREFORE,

16 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that plaintiff's motion to
17 reconsider Magistrate Judge Leavitt's order denying plaintiff's motion for an order to show cause.
18 (Doc. #198) is DENIED.

19 IT IS FURTHER ORDERED that plaintiff's motion for leave to file a reply brief in support
20 of the motion for reconsideration (Doc. #223) is DENIED.

21 || DATED this 12th day of July, 2010.

James C. Mahan
UNITED STATES DISTRICT JUDGE